DOCUMENT RESUME

ED 185 217 UD 020 523

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TITLE The Special Significance of Akron's School Case.
PUB DATE Aug 80
NOTE 14p.; Paper prepared for the Annual Meetings of the Society for the Study of Social Problems (New York, NY, August 24-27, 1980)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Desegregation Litigation; Elementary Secondary Education; *Housing Discrimination; *Public Policy; *Racial Segregation; *Residential Patterns; School Community Relationship; School Desegregation; *School Segregation
IDENTIFIERS *Ohio (Akron)

ABSTRACT

This paper describes a school desegregation case, begun in 1978, in which housing segregation was a principal issue. The history of both residential and school segregation in Akron, Ohio, are outlined. It is held that public housing and credit policy greatly contributed to the maintenance of segregated neighborhoods in all United States metropolitan areas, including Akron. A series of lawsuits regarding racially segregated housing and schools that were brought against local authorities beginning in the 1960s and the opposition of school board officials to black parents' efforts to desegregate the schools are also described. Events leading up to the 1978 suit, including the adoption of a desegregation plan that many citizens held was unfair and ineffective, are reviewed, as is some of the evidence against both housing and school officials. The inseparability of public school segregation from segregated residential patterns and the consequent necessity for addressing both areas through litigation are emphasized. (GC)

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THE SPECIAL SIGNIFICANCE OF AKRON'S SCHOOL CASE

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Prepared for presentation at the annual meetings of the Society for the Study of Social Problems, August 24-27, 1980, New York City.

UD020523

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THE SPECIAL SIGNIFICANCE OF AKRON'S SCHOOL CASE

One year ago, I spent three days testifying as an "expert witness" in Akron's school desegregation case -- a case that may have critical significance for other communities across the country. Although all school desegregation suits have serious consequences for their own communities, the Akron case has special significance for all communities. It is the only intra-city school case that not only names housing officials as defendants along with school officials, but includes housing segregation as an integral part of the case. This is not unusual in inter-district cases, but to my knowledge it is the first city school case of its kind in the country.

Filed by six parents, the Akron case has two separate counts, one on housing, the other on schools, with citations of reciprocal effects of each on the other. The heart of the case, and its special significance, revolves around the contention that if segregated housing patterns caused by official actions contribute to segregated schools, then the school authorities can be required to remedy the effects of those actions. If this contention is supported by the courts there will be few American cities that would be unaffected -- for which American city does not have a history of racial discrimination in housing, zoning, and land-use practices and policies?

Named as defendants in the Akron case were the City of Akron, the Public Housing Authority, the State Real Estate Commission, HUD, and the Akron school Board and authorities. (HUD was later removed from the case after they agreed to furnish the parents with vital data concerning housing segregation.) The charges

were that the intentional racially discriminatory actions of governmental agencies at all levels -- federal, state, and local -- were a contributing and substantial cause of the condition of residential racial segregation and concentration that exists in the City of Akron today. Totally apart from the intentional racially segregatory actions of the Akron Board of Education, the condition of residential segregation and concentration contributed to system-wide racial segregation in the Akron schools and to the existence of a large number of racially identifiable schools. If it had not been for that condition of residential segregation and concentration, it would not have been possible for the school Board to have taken the intentional racially segregatory actions that produced de jure segregation in a substantial portion of the school system. More importantly, if it had not been for the intentional racially discriminatory actions of governmental agencies at all levels, there would not be the patterns of residential racial segregation and concentration that exist in the City of Akron today, and in all probability none of the schools in the Akron system would be racially identifiable.

The team of ACLU lawyers working for the six parents gathered an array of witnesses to assist in the preparation of the data, which took over a year to assemble. The whole case was fought with nickels and dimes, with the lawyers working for nothing. This was, in fact, the second suit filed by parents against the Akron school system, and was the culmination of a fifteen year struggle for educational equality in that city. A brief chronicle of events leading up to the second suit indicates the growing frustration of Akron residents over the years because of inaction, neglect, and negative action by school and

housing authorities. The chronicle also shows the greatly intertwined effects of housing and school patterns and policies.

The Akron struggle began with the killings of the little girls in Birmingham in 1963. Agonized by this, local NAACP leaders went to the Akron school authorities and asked them to consider ways of reducing racial isolation in the Akron schools, which then had 38% of the Black children attending predominantly Black schools. After two years of dialogue, an impasse was reached and the national NAACP was called in and filed suit in 1965, charging school authorities with intentional segregation. In 1968, the court ruled in favor of the schools, claiming that no intentional segregation had been proven by NAACP. The lost case was never appealed, and that lower court decision remained to plague Akron residents for the next ten years.

In those ten years, practices and policies of urban renewal relocation and public housing site selection created and perpetuated residential segregation in Akron, with Blacks mostly relocating in the western part of Akron.[1] In response to these population shifts, parents charged that school authorities altered attendance zone boundaries and created optional zone boundaries to allow White students to avoid attending predominantly Black schools, thus creating and perpetuating school segregation in Akron.

Repeatedly throughout the ten year period citizens appealed to school authorities and city officials to alter such practices and policies, to no avail. Though a volunteer fair housing group was formed in 1965, it was unable to reverse the patterns.[2] In 1972, a coalition of thirteen organizations supported a resolution to Akron City Council, requesting city leadership to urge school authorities to begin to study plans for reducing racial

isolation in the schools. When the city refused, claiming the schools were not within their area of concern, the coalition went directly to the school Board again and presented this resolution. The school authorities rejected the request, claiming that the Akron schools were not then nor ever had been segregated, and citing their 1968 exoneration in court to substantiate their cllaim. By this time (1973) 62% of Akron's Black children and 58% of Akron's White children attended racially isolated schools (i.e., 50% or more Black for the Black children, and 90% or more White for the White children.)

A complaint was filed with HEW, which did nothing in response. (National NAACP later filed suit against HEW, charging inaction, citing 40 cities where no action was taken in response to formal complaints. Akron was one of those cities.) A minor legal suit was filed in 1973 by some parents of one predominantly Black school cluster, charging the schools with misuse of state Vocational Education funds for placing a college-oriented careers program in the wealthiest and all-White high school located three miles from a predominantly Black high school. In 1974, the decision was favorable to the parents, and the school authorities removed the careers program from the all-White school and relocated it in a centrally located integrated high school.

Also in 1974, a blue-ribbon planning task force called for the reduction of racial isolation in the Akron schools. In 1975, a school bond levy was not supported by some Black and civil rights groups in Akron for the first time. An election of new school Board members focused on the issue of racial isolation for the first time, because of citizen group pressure. In 1976, an Akron teen-age youth group spent the Martin Luther King memorial holiday drafting a petition to the Akron school Board

requesting it to develop plans for reducing racial isolation in the schools.

Finally bowing to this pressure, in 1976 the Akron school Board presented an " Akron Plan", a five year plan to "decommission school buildings" because of declining enrollments and/or age. This plan called for the closing of seven Black schools and one integrated one, and the dispersal of those children to other schools -- mostly White, but also including some integrated and predominantly Black schools. Virtually untouched by the "Plan" was the largest cluster of Black schools on the west side of Akron.

The earlier coalition of thirteen organizations was reconvened to protest this plan. They sent a letter to the school authorities requesting outside consultants to develop a fairer and more comprehensive plan. In 1977, letters of complaint about the "Akron Plan" were filed with HEW and the state Board of Education, charging the "Plan" with being too little and too late, placing an unfair burden of transportation on Black children, and leaving many segregated schools untouched.

All along, Akron residents thought that because the earlier suit had been lost, another suit was not possible. Then in 1977 word came about two other cities which had refiled suits after losing earlier ones filed in the '60's -- Cincinnati and Kansas City. Akronites also heard of an attorney in Detroit who had won the Louisville and Lexington, Kentucky school suits. He was contacted, and agreed to study materials and documentation prepared by concerned citizens. On October 1, 1978 he agreed to take the Akron case without charge as an ACLU attorney, provided that two conditions were met: 1) The local ACLU had to agree to furnish volunteer cooperating attorneys (at least three),

and 2) money had to be pledged for the necessary expenses to carry the case through -- at least $2000 for typing, xeroxing, and some travel money. The two conditions were met, and in November the Detroit attorney came to Akron to meet the Ad Hoc citizen group that had contacted him.

Citizens for Educational Equality (CEEQ) became the name of the citizen group, and out of that group the six parents volunteered to become plaintiffs. The case was filed on January 13, 1978, and immediately a letter was hand-delivered to the Akron Board of Education requesting negotiation and settlement out of court. The Board voted 4 to 3 to reject negotiation. Legal proceedings were under way.

The three week trial began nine months later on October 16, 1978 in Akron's Federal District Court, with Judge Contie presiding. This was the second school desegregation case he was involved with, having heard the Youngstown case the year before and ruling against the parents there in a 240page decision. At this time, his decision has not yet been given in the Akron case, but is expected momentarily. He asked attorneys for both sides in the Akron case to file additional briefs after the Supreme Court decision came on Dayton and Columbus, requesting them to show the relevance of that decision to the Akron case (school attorneys claim irrelevance, parents' attorneys claim relevance!) The huge volume of paper generated in this case required the six parents to raise $5000 to buy the 3000 pages of transcripts of the trial, and an additional $3000 for other costs.

My role as "expert witness" in the Akron case stemmed from my long involvement with the open housing movement, nationally and locally, and my writing and teaching in the fields of race relations and urban sociology. As we put together the housing case in Akron, I saw all over again the reasons for the beginning of the open housing movement.[3] Here in Akron was a microcosm of what happened in other cities all over the country.

The housing case begins with FHA policies in the '30's and '40's when its underwriting manuals warned of the infiltration of "inharmonious racial groups." FHA was responsible for the widespread use of racial convenants, and its general practices were described as "separate for whites and nothing for Blacks." As late as 1959, less than 2% of all the FHA insured housing built in the post-war housing boom (11 million new homes surrounding all the major cities) was made available to Blacks. When FHA was ordered in the late '60's to grant equal opportunities to Blacks, loans began to be granted to them but primarily to move to Black or integrated areas. Whites continued to receive the loans for all-white areas. Thus the pattern of racial segregation and concentration was created and perpetuated for the metropolitan areas of this country, including Akron, Ohio.

An integral part of that pattern was shaped by public housing policies and practices. In Akron, as elsewhere, public housing was built and occupied on a segregated basis. Akron maintained in 1940 and 1950, for example, eight housing projects on a totally segregated basis -- all Black or all white. When they began their leased housing and scattered site subsidy programs in the late '60's, these were also operated on a segregated basis, with Blacks receiving subsidies to remain or move

to already impacted areas, and whites being dispersed throughout the metropolitan area. When the Section 8 subsidy program began, only three years ago, there was more of the same.

This pattern and practice of housing segregation was reinforced and exacerbated by the urban renewal program, beginning in Akron in 1962 and continuing to the present. The second largest land clearance program in the country, Opportunity Park (a real opportunity for more segregation), took place in Akron in 1966. Since then, more than 5000 units were demolished, and almost 4000 families and individuals were displaced -- all in racially segregated patterns.

During this time, Akron was one of the early cities to pass a fair housing law. Voted in and voted out between July and November of 1964, the constitutionality of that vote went all the way to the Supreme Court where the revoking of the law was declared unconstitutional in 1969. This decision reaffirmed the earlier passage of the fair housing law in Akron, which probably had the shortest history of any fair housing law in the nation. But by the time it was reaffirmed by the Supreme Court, housing segregation in Akron was firmly entrenched by FHA, public housing and urban renewal practices. Blacks were relocated by urban renewal and shoved around from one ghetto to another, mostly ending on the west side of Akron in two school clusters.

The countervailing forces in this entire period were found in the civil rights movement, out of which the open housing movement developed. In Akron, fair housing began to stir in 1964. Despite the defeat of the local law, the local movement formally began in 1965 with the formation of the Fair Housing Contact Service, a voluntary non-profit group that won the National Volunteer Award in 1973. This group is still in exis-

tence and is now funded by the City and County after ten years of totally volunteer effort. Two years after the fair housing group began, some of the same leaders formed a neighborhood stabilization group on Akron's west side -- West Side Neighbors, designed as a demonstration model of effective integrated living. That group, too, is still going strong, and was just funded through HUD and the City of Akron for a one-year demonstration program in neighborhood promotion and revitalization.

People in both of these organizations and others came to realize very early that the schools were a critical factor in maintaining the stability and integration of west Akron, the largest interracial area of the county. When the school authorities repeatedly refused over the years to listen to the pleas of west side residents to do something about racial imbalance, the people formed an east-west coalition, and finally went to court in 1978.

During the three week trial, an array of witnesses took the stand on behalf of the six parents who filed the suit. From Washington, D.C. came Martin Sloane and Frank Schwelb. Sloane is the chief counsel for the National Committee Against Discrimination in Housing and he testified as to the long legacy of racial discrimination in housing stemming from government practices and policies. Schwelb is the chief counsel of the Housing Section of the Civil Rights Division of the U.S. Department of Justice, and he reinforced the evidence of the government's role in creating and perpetuating racial segregation in housing. From the University of Wisconsin came Karl Taeuber, testifying as to the demographic data indicating racial segregation in Akron. He spent two days on the stand. I was next, with a historical account of the formation of the fair housing and

neighborhood groups in Akron, and the long fruitless struggle for equal housing and equal educational opportunities.

The school portion of the case produced evidence of teacher assignments, transfer policies affecting students, attendance and optional zone boundary changes, and other data alleging that the school authorities had built upon residential segregation patterns and reinforced them and in addition created and reinforced school segregation with their practices and policies. This was, of course, vigorously denied by school Board witnesses, who claimed that the housing patterns were the sole cause of the racial concentration in schools. Moreover, they stressed the fact that their "Akron Plan" would result in some desegregation in the next five years. Their major argument was that since they were not responsible for the housing segregation, they were not responsible for the resulting school segregation and should not be required to remedy it.

The question of governmental responsibility for residential racial segregation as related to school segregation has arisen primarily in the context of the imposition of an inter-district desegregation decree in order to remedy effectively the condition of de jure segregation found to exist in an urban school district. If districts that have themselves committed no constitutional violation can be subject to an inter-district desegregation decree, they are necessarily required to remedy a situation for which they are not responsible. If this is true for the inter-district situation, then it must be equally true for the intra-city case, the Akron ACLU lawyers argued.

Though the Akron school Board contends that it cannot be required to remedy a constitutional violation committed by other governmental agencies, a Seventh Circuit decision in the 1978

Indianapolis case indicates that it can:

> The commands of the Fourteenth Amendment are directed at the state and cannot be avoided by a fragmentation of responsibility among various agents. If the state has contributed to the separation of the races, it has the obligation to remedy the constitutional violations. The remedy may include school districts which are its instrumentalities and which were the product of the violation. Thus if state interdistrict housing practices have a substantial interdistrict effect, it is appropriate to require school authorities to remedy the defects to require it to deal with the consequences of other governmental actions. The school board cannot act so as to perpetuate and give effect to a constitutional violation within its sphere of operations. It cannot allow governmentally-produced residential racial segregation to result in school racial segregation.

Since the Supreme Court decision in the 1971 Swann case, few judges have followed their lead and given close attention to the link between schools and housing. Yet, this reciprocal effect may have to be an integral part of future school segregation lawsuits in our troubled urban communities across the country. Extraordinary measures are needed to counteract the legacy of hundreds of years of racism in this country. James Farmer said it:

> An integrated society will not automatically happen. We've got to take deliberate counter-measures to create that kind of society ... it won't create itself... And many of these counter-measures that we must take will have to be extraordinary measures ... because, in a way, we are jumping upstream ... running against the prevailing trend (of separation) ...4

Just as segregated housing once created segregated schools, so now we see how segregated schools reinforce and perpetuate segregated neighborhoods. This is true because people choose their neighborhoods now according to the racial composition of the schools and their perceived quality.

There are those who believe that the open housing movement is the ultimate answer to segregated schools. They may be right in the long run, but in the short run -- in our lifetimes, that is -- the desegregation of schools may be the fastest way of bringing

about desegregated housing. This is so because of the reciprocal effect, and because housing patterns take so long to change alone. There is some dramatic evidence that this can happen. In Louisville, Kentucky, for example, housing desegregation has already occurred as a result of some wise implementation of a school desegregation decree.

In the next decade, we may have to take this extraordinary short-term measure -- school desegregation -- while we continue to sharpen our long-term effectiveness in bringing about open housing. The Akron school and housing case may point the way for other communities to proceed.

References

1 Juliet Saltman, Open Housing: Dynamics of a Social Movement, New York: Praeger, 1978.

2 Ibid.

3 Ibid.

4 Juliet Saltman, Ed., Integrated Neighborhoods in Action, Washington, D.C.: National Neighbors, 1978, p. ix.